



MISSOURI DEPARTMENT OF MENTAL HEALTH

KEITH SCHAFER, DEPARTMENT DIRECTOR



DEPARTMENT
OPERATING
REGULATION
NUMBER

DOR
2.220

CHAPTER Client Rights	SUBCHAPTER Employee Misconduct Procedures	EFFECTIVE DATE 8-3-13	NUMBER OF PAGES 4	PAGE NUMBER Page 1 of 4
SUBJECT Employee Misconduct Definitions and Procedures: State Operated Facilities		AUTHORITY Section 630.050	HISTORY See Below	
PERSON RESPONSIBLE Department Deputy Director			SUNSET DATE	7-1-17

PURPOSE: Prescribes prohibitions against and procedures to address employee misconduct related to security, provision of care and interactions with consumers.

APPLICATION: Applies to department employees.

(1) As used in this DOR, the following terms shall mean:

(A) Complaint: An allegation that employee misconduct has occurred.

(B) Employee misconduct: An employee who fails to comply with acceptable standards of care, the requirements of facility policy, the requirements of treatment or habilitation plan, fails to report employee misconduct, has an inappropriate dual-relationship with a consumer, provides inappropriate supervision/oversight or is verbally disrespectful to a consumer or in the presence of a consumer. Employee misconduct can occur through an error, drift from policy/procedure or reckless disregard of policy/procedure.

(C) Employee Misconduct Review: Process of gathering facts surrounding an event or complaint to determine if employee misconduct has occurred.

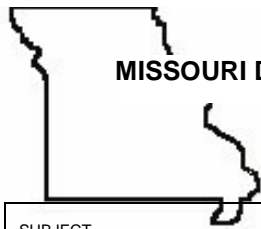
(D) Failure to comply with acceptable standards of care: Failure to adhere to one or more of the following: (a) licensure and certification requirements specific to each clinical discipline; (b) codes of professional ethics; (c) physician orders and/or (d) failure to follow procedures related to basic consumer health and care. Medication errors resulting from a failure to follow facility policy and/or procedures that are substantially inconsistent with acceptable nursing practice may be employee misconduct.

(E) Failure to comply with the requirements of facility policy: Failure to adhere to facility policies regarding security or the provision of consumer treatment, habilitation and/or rehabilitation.

(F) Failure to comply with requirements of the treatment or habilitation plan: Failure to adhere to the requirements of a consumer's treatment or habilitation plan. Examples include, but are not limited to, failure to provide scheduled treatment or habilitation interventions without the approval of a supervisor, failure to utilize required mealtime procedures, intentional failure to provide or arrange for a required medical intervention.

(G) Failure to report employee misconduct: Failure to report employee misconduct or unacceptable delays in the reporting of abuse or neglect. A delayed report of abuse or neglect made after another employee has come forward with a comparable allegation may be investigated as Neglect.

(H) Dual-relationship: Loss of professional boundaries indicating a relationship with a consumer independent of the employee's role as a provider of care. Examples include, but are not limited to the following: (a) writing letters, texting, emailing, use of social media or accepting phone calls of a personal nature that are not treatment related; (b) developing an emotionally exploitative relationship; or (c) purchasing property or services from a consumer or accepting an offer of food or other gift without review and approval by the supervisor or treatment team.



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The purchase of property or services from a consumer in which the agreed upon price substantially varies from the market value or the selling of property or services to a consumer shall be investigated as misuse of funds/property.

(I) Inappropriate supervision/oversight: Failure to provide appropriate supervision/oversight to a consumer. Examples include, but are not limited to, sleeping on duty, failure to conduct face checks, failure to provide the necessary level of supervision. Inadequate supervision that presents either imminent danger to the health, safety or welfare of a consumer, or a substantial probability that death or serious physical injury would result will be investigated as Neglect.

(J) Verbal disrespect: An employee using profanity or speaking in a demeaning, non-therapeutic, undignified or derogatory manner to a consumer or in the presence of a consumer.

(2) Complaints of employee misconduct shall be immediately reported to the head of the facility by department employees and contract employees who know through direct or indirect means that employee misconduct has occurred, or suspect that employee misconduct has occurred or receive a complaint that employee misconduct has occurred. Employees who fail to report known or suspected incidents of employee misconduct are subject to discipline, up to and including dismissal. Persons, other than employees, who believe that employee misconduct has occurred, shall report such incident to a staff member, supervisor or facility administrator. Any employee or person, in lieu of the reporting requirements herein, may call the hotline at 1-800-364-9687 to file a complaint if the reporter is concerned that the head of the facility or other staff person will not properly address the employee misconduct or may retaliate against the reporter.

(3) The head of the facility or designee shall document on the department CIMOR Event Management and Tracking (EMT) form all complaints of employee misconduct.

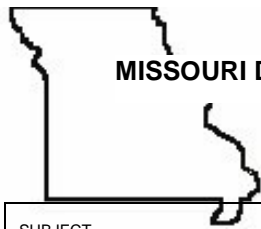
(A) The head of the facility or designee shall ensure the form is completed thoroughly and accurately. All complaints shall be entered into the CIMOR EMT by the head of the facility or designee within twenty-four (24) hours of the incident, or by the end of the next working day after the incident occurred, was discovered, or notification of the incident was received.

(B) The head of the facility or designee shall complete an employee misconduct review of the incident within ten (10) working days of receipt of the initial complaint.

(C) Pending completion of the employee misconduct review of the incident, based on the seriousness of the event and/or the number of previous findings of employee misconduct against the employee, the head of the facility may place the employee accused of employee misconduct on administrative leave with pay or assign the person to work in an area away from consumer contact, if such is available.

(D) If during the employee misconduct review the facts gathered suggest that the incident involves abuse or neglect, then the head of the facility or designee shall, within twenty-four (24) hours of being notified of the suspected abuse or neglect, comply with the requirements of DOR 2.205.

(E) For facilities certified as an intermediate care facility for the developmentally disabled (ICF-DD), the head of the facility or designee shall initiate the employee misconduct review and make a preliminary determination within twenty-four (24) hours of notification of the



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incident of whether the complaint involves the possibility of abuse or neglect. If a preliminary determination is made that the complaint involves the possibility of abuse or neglect, an investigation shall be requested in accordance with DOR 2.205.

(4) Instances of employee misconduct that rise to the level of criminal misconduct as defined by Missouri state law shall be reported to law enforcement within twenty-four (24) hours of discovery.

(5) After receiving the final completed employee misconduct review report, the head of the facility or designee shall, within ten (10) working days, decide upon the appropriate disposition of the matter or request further review.

(A) If the head of the facility or designee requests further review, an additional five (5) working days may be allowed to complete the report, unless the facility head or designee allows more time.

(B) If the complaint is unsubstantiated, the facility head or designee shall enter the determination into CIMOR EMT within one (1) working day of the decision and provide a letter to the employee notifying him or her that the complaint was unsubstantiated.

(C) If the complaint is substantiated, the facility head shall take the following actions:

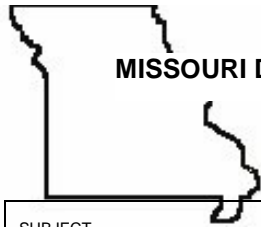
1. Review the adequacy of the supervision provided to the employee at the time the employee misconduct occurred. If deficiencies are identified, a plan of correction shall be implemented to rectify those deficiencies. The plan of correction may include disciplinary action, up to and including dismissal, for supervisory personnel who failed to provide appropriate oversight to staff or had knowledge of the employee misconduct and failed to intervene.

2. Review the adequacy of the system supports provided at the time the employee misconduct occurred. If systemic deficiencies are identified, a plan of correction shall be implemented to rectify those deficiencies.

3. Take appropriate corrective action, which may include discipline up to and including dismissal, against the employee in accordance with DOR 6.050 and provide written notice of the disciplinary action to the employee as provided in DOR 6.050, a copy of which shall be maintained in the employee's personnel file. When evaluating the level of discipline to impose, the head of the facility shall consider the employee's work history, the intentionality of the employee's behavior, the severity of the risk posed to the consumer as a result of the misconduct, whether the employee has a history of misconduct, and the systems or process failures that might have contributed.

4. All plans of action or correction shall be entered into CIMOR EMT within ten (10) working days of the determination.

(6) All employee misconduct review materials (including final reports) shall be confidential and retained by the facility head in an appropriately secure location separate from the employees' personnel files. No such material shall be kept in the consumer's file. In the event that the review culminated in an employee log, written counseling or disciplinary action, the appropriate document will be placed in the employee's personnel file.



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(7) No director, supervisor or employee of a residential facility, day program or specialized service shall evict, harass, dismiss or retaliate against a patient, resident, consumer, or employee because he or she or any member of his or her family has made a report or complaint of any employee misconduct. Persons committing such retaliation shall be subject to disciplinary action up to and including dismissal.

(8) Persons who are responsible for implementing this DOR, or for assuring its implementation, and fail to do so, may be subject to disciplinary action up to and including dismissal.

(9) The head of the facility or designee shall ensure that the following quality assurance requirements are met:

(A) Any determination involving employee misconduct shall include a review of the employee's work history and a review of any prior misconduct findings and a review of any prior corrective and/or disciplinary actions involving that employee.

(B) A quality assurance review shall be conducted on at least a quarterly basis to identify trends and other indicators of relevance to facility changes in the patterns of employee misconduct. This shall include identification of employees with multiple incidents of employee misconduct and the personnel actions involving those employees. The review shall be forwarded to the Division Director.

(C) A quality assurance evaluation shall be conducted on an annual basis to verify compliance with all the requirements of this DOR and to summarize the findings of the quarterly assurance reviews. The annual summary shall be provided to the Department Director and each Division Director.

(10) All appropriate staff, as determined by each respective Division Director, shall be trained on the requirements of this DOR prior to its effective date.

HISTORY: Original DOR effective July 1, 2007. On July 1, 2010 the sunset date was extended to 7/1/13. Amendment effective June 20, 2013. Amendment effective August 3, 2013.